

P-438/C-89-382 APPROVING REVISED TARIFF BOOK, ORDERING LDB CORPORATION
TO FILE REVISED TARIFF PAGES AND CLOSING THE COMPLAINT DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of LDB Corporation Filing a
Corporate Accounts Tariff Pursuant to a
Complaint Filed Against the Company

ISSUE DATE: February 13, 1990

DOCKET NO. P-438/C-89-382

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PROCEDURAL HISTORY

On June 1, 1989, the Minnesota Department of Public Service (the Department) received a complaint against the LDB Corporation (the Company) alleging that the Company provided discounts to selected customers that are larger than the tariffed volume discounts.

On September 12, 1989, the Department filed its Report of Investigation and Recommendation. The Department stated that its investigation showed that the party receiving the larger than tariffed volume discounts did so pursuant to a "Corporate Account" which was designed to aggregate use in order to receive the high volume discounts. The Department stated that prior to its investigation this billing plan was not tariffed as required by Minn. Stat. § 237.07 and the Company was only tariffing it now at the Department's request. The Department recommended that the Commission approve the Company's tariff for the Corporate Account Plan, order the Company to maintain current tariffs, and order the Company to refund overcharges to all its business customers who did not receive the Corporate Account discount during the period of time that the plan was offered but not tariffed.

On September 25, 1989, the Company filed its response. The Company denied that its Corporate Account was a special rate or discount that it was legally required to tariff. The Company characterized its Corporate Account simply as a convenience feature for its customers that did not change its already tariffed rates. As such, the Company maintained, it was under no legal obligation to tariff this feature and had done so not as an admission that it should have been tariffed, but solely to accommodate the Department's request.

On October 10, 1989, the Company submitted sworn affidavits from the Company's National Customer Service Manager and the Minnesota Regional Manager stating that when customers apply for new service, or when existing customers are contacted for evaluation, they are made aware of

the availability of the Corporate Account feature. The affiants included copies of the application for service, the pages from the presentation manual for new customers that describe the Corporate Account, and the evaluation form used for the three month favored customer evaluation that is conducted by the Company on all its existing customers.

Subsequently, the Department submitted an Addendum to its September 19, 1989 Report of Investigation and Recommendation. The Department restated that the Company's failure to tariff its Corporate Account plan was a failure to maintain a current tariff, in violation of Minn. Stat. § 237.07 and previous orders of the Commission. The Department further indicated, however, that it was satisfied that the Company had made an adequate effort to make its customers aware of its Corporate Account plan and that the Company had not discriminated against any of its customers in offering the Corporate Account plan. The Department recommended, therefore, that the Commission approve the revised tariff book submitted by the Company which included information on the Corporate Account, order the Company to submit revised tariff pages as the rates, terms and conditions of service offered by the Company change, and close the complaint docket against the Company.

This matter came before the Commission for decision on January 23, 1990.

FINDINGS AND CONCLUSIONS

A fundamental question in this matter is what aspects of telephone service must be tarified and what may go untarified. Questionable carrier performance in this area is not unique to the Company, but is relevant to all long distance carriers. If special pricing plans or special conditions of service are offered by a carrier, such plans or conditions must be stated in a current tariff. Minn. Stat. § 237.07. The fact that a carrier may characterize its plan or condition as a "feature" or as a "convenience" as the Company has here, does not avoid the statutory requirement. The statute is designed to let customers and competitors know of the services offered by all companies in the marketplace. Failure by carriers to fully comply with the statute may adversely affect competition and consumer welfare. To clarify boundaries in this area, the Commission finds that the Company's Corporate Account "feature", "plan" or "convenience" is a matter which it is required to tariff. The tariff submitted by the Company subsequent to the initiation of this complaint regarding its Corporate Account appears adequate and appropriate and will be approved.

The Company continues to exhibit some difficulties in this area. In two previous dockets, the Commission has reminded the Company of the Commission's tariff filing requirements and that it should be complying with those requirements. Docket No. P-438/M-88-228 and Docket No. P-999/CI-88-263. Therefore, the Commission will underline the relevant statute (Minn. Stat. § 237.07) and its concern for the Company's compliance with that statute by ordering the Company to submit revised tariff pages whenever it changes the rates, terms, and conditions of the service it offers.

Finally, the Company has adequately demonstrated that it has not discriminated against any existing or new customer in the offering its Corporate Account. In such case, no one was overcharged, no refund is indicated, and the complaint docket against the Company will be closed.

ORDER

1. The revised tariff book submitted by the Company is approved.
2. The Company is ordered to submit revised tariff pages whenever it changes the rates, terms, and conditions of its service.
3. This complaint docket, Docket No. P-438/C-89-382, shall be, and is hereby, closed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson
Acting Executive Secretary

(S E A L)